APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,160	09/11/2003	Daniel Joseph Heithoff	ROC920030088US1	7388

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EXAMINER
STIBLEY, MICHAEL R

ART UNIT	PAPER NUMBER
3688	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _06 June 2008_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-5 and 22-25_ is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-5 and 22-25_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on _11 September 2003_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
      Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
      Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on May 7, 2008 has been entered and a Non-Final

Action follows.

Response to Arguments

2.   Applicant's arguments with respect to claims 1-5 and 22-25 have been considered but are

moot in view of the new ground(s) of rejection.

DETAILED ACTION

Status of the Claims

3.   Claims 1-5 and Claims 22-25 are currently pending in the instant application and

have been examined.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or
composition of matter, or any new and useful improvement thereof, may obtain a patent
therefor, subject to the conditions and requirements of this title.

4.   Claims 1-5 and 22-25 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

As per Claims 1-5 and 22-25: Claims 1-5 and 22-25 are rejected under 35 U.S.C. 101 as

drawn to a non-statutory subject matter. The claims (or at least independent claim 1) are related

to mental processes, which is not patentable, and are not cured by the dependent claims. Indeed,

the claims (e.g. claim 1) recite a (mental) process, which is not tied to another statutory class or

does not change or switch statutory class (such as a particular apparatus) or does not transform

the underlying subject matter (such as an article or materials) to a different state or thing. See

MPEP §2106.IV.B: *Determine Whether the Claimed Invention Falls Within An Enumerated*

Statutory Category. See also the following U.S. Supreme Court cases: *Diamond v. Diehr,* 450

U.S. 175, 184 (1981); *Parker v. Flook, 437* U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson,* 409

U.S. 63, 70 (1972); *and Cochrane v. Deener,* 94 U.S. 780, 787-88 (1876).

Claim Rejections – 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.   **Claims 1-5 and 22-25 are rejected under 35 U.S.C. 102(e) as being anticipated by**

Bong Jae Lee et al (LEE)(US Patent 6,718,489 B1).

As per claim 1, **LEE SPECIFICALLY** teaches an Automatic Fault Management

System, which monitors components **[identifies trends]** on multiple platforms and workstations

incorporating an Electronic Service Generator, which operates to sense error events and selects

an appropriate Formatter unit to develop a report packet for a Remote Service Unit **[marketing**

channel]. (see abstract)

An electronic service request is a data packet containing information on system or application errors. This packet is initiated automatically by an ESR Generator, which sends it to a Formatter program for data formatting. The formatter program sends the packet electronically to the Central Service, which in turn sends it to the Remote Communications Interface (RCI) for action and resolution. (Col 3 Lines 3-10)

An error event is a condition reported as an error by a system [**receiving data from a client upon an occurrence of an event re: detection of performance problem**] or an application, for example, a bad sector on a hard disk. This type of condition requires immediate attention [**time period until resource is constrained**]. (Col 3 Lines 22-26)

The ESR Generator Monitor [**identifies trends**] is a unit which is a functional part of the ESR Generator and wakes-up when there is a new entry in the NT Event Log, then examines if it is required to get attention from the Remote Support Unit [**marketing channel**]. If it does, it will extract necessary information from the NT Event log, package the data, send it to a properly selected Formatter using Winsock protocol. Depending on the particular application which reports the problem in the NT Event Log, the ESR Generator looks up a Configuration Table to determine which Formatter will process each particular set of reported information. [**specify an associated recommended offering**] Then, the ESR Generator module sends its information to the properly selected Formatter. The designated Formatter will format the information according to a special Packet Specification. Then it is sent to the Central Service Unit. (Col 4 Lines 1-15) See also Col 11 lines 35-56

An Event is a condition indicating that a potential problem has been detected before significant errors appear, for example such as low disk space. Action should be taken to prevent it from becoming a more serious problem. (Col 4 Lines 27-30)

The Generator is a software service that monitors [**identifies trends**] the Windows Event Log. When the Generator detects an event that meets a predefined set of conditions, the Generator extracts information from the Event Log and sends it to a Formatter program for proper data formatting. (Col 4 lines 49-54)

The Hardware/Software Fault Detector is a unit which is used in each client's computer platform in order to sense, measure and detect any type of hardware or software fault which may occur in order to notify an NT Event Log in the ESR Generator Module. (Col 4 Lines 54-59)

REMOTE COMMUNICATIONS INTERFACE (RCI) is a remote unit for receiving test packets from the Central Service unit in order to check whether the network mechanism is functioning correctly. (Col 5 Lines 29-32)

CENTRAL SERVICE: A software module that receives an Electronic Service Request packet from a Formatter Program. This packet contains information on system and application errors; provides system and customer information; and describes the severity of the problem. The Central Service schedules and sends the data packet to the Unisys Remote Communications Interface (URCI) for action and resolution. (Col 2 lines 58-65)

NACK: Negative acknowledgment (NACK). A data packet returned by the Remote Communications Interface (RCI) to indicate that an Electronic Service Request packet failed to process. The packet also includes an error code and a descriptive error message. (Col 4 line 65 –

<u>Col 5 line 2) [**request to receive information regarding why the recommended offering was made**]</u>

SACK: Successful acknowledgement (SACK). A data packet returned by the Remote Communications Interface (RCI) to acknowledge that an Electronic Service Request packet was processed successfully. The packet also includes the customer contact number assigned by the Remote Communications Interface (RCI). (<u>Col 5 lines 33-38</u>)

The Client-Server Partition/Computer is seen to have a hardware/software fault detection unit which connects to an Electronic Service Request (ESR) generator, which then communicates with a ESR Packet File Formatter. The ESR Formatter also retrieves instructions from the NT Registry. The ESR Packet File Formatter is provided with a communication link to the Master Partition/Computer,. This enables the transmission of an ESR packet to a Remote Communications Interface (Remote Service Center). Then a response, called the Response Notification occurs via channel back from the Central Service. (<u>Col 6 lines 45-57</u>)

Then, peripherally connected to the Central Service, are two other units, one of which is the ESR Monitor User Interface (UI) and the Remote Communication Interface (RCI) which connects to the Central Service through use of a tracking number. (<u>Col 7 lines 5-10</u>)

The ESR Central Service provides for central processing and the management for all various types of these ESR packets which describes the problem and its severity. This provides an open solution because any application can send a ESR packet to the Central Service Unit that handles the receiving, sending, scheduling, monitoring, and fault recovery of ESR packet sending over to the Remote Communications Interface (RCI). (<u>Col 7 lines 29-36</u>)

The ESR Packets are sent to the Remote Service Center via Winsock over a dial-up networking. The Administrator Database is updated to reflect the acknowledged successful or non-successful response (SACK, NACK) from the Remote Service Center. (Col 12 Lines 30-35)

The Electronic Service Request Generator is for an automatic fault management system where multiple platforms are monitored for hardware and software faults. Each reported fault is placed in an Event Log and compared with a fault condition database to sense the need for further action. If further action is required, an appropriate Formatter is selected to initiate the preparation of an Error Packet to be sent to a Remote Service Interface which can subsequently respond with help to handle the problem. (col 13 lines 7-15)

A pre-defined set of conditions will trigger an Electronic Service Request via an Electronic Service Request fault criteria grid which is organized in a set of columns as seen in Table I, which includes Event Source, Event Type, Event Category, Event ID and a Description. (Col 7 Lines 49-67)

When errors are sensed and they meet a set of conditions specified by the Conditions Database, then the ESR Generator Service will initiate the following: (1) It extracts error information from the Windows NT Event Log; (2) The generator service creates a ESR packet that contains a description of the error; (3) The generator service sends the data packet to the ESR Formatter program which then converts raw data into a specific data format that meets a specified packet specification; (4) the generator service then sends packets to the Formatter using a synchronous Winsock connection. After this, the NT server will forward the packet to the Remote Service Center for subsequent corrective response action. (Col 8 Line 53 – Col 9 Line 3)

The ESR Generator Functions include: When the ESR generator module, operates, it

operates as a multi-threaded NT service. When this service is started, then a sequence of

functional steps are initiated as follows: (a) reading of the ESR conditions from the Fault

Conditions Database; (b) getting the Formatter information type-class from the Registry (c)

executing operations in the Formatter module, ie with the appropriately selected Formatter unit;

(d) executing the applications for the Event Log Watch thread; (e) executing the Sent thread (Col

9 Lines 4-17)

The Configurations Set-Up- ESR Admin Module: Using the Windows-based proprietary

ESR Administrator user interfact, the ESR Administrator can specify or modify such information

as follows: (i) system style and serial number; (ii) customer name, address and phone numbers;

(iii) the connecting Winsock ports; (iv) the type of conditions that must be met before the ESR

packet is generated. (Col 9 Lines 17-26)

In the event when there is detection of a single-bit memory error, and the "report

frequency" is more than "1", then the ESR generator service starts to count frequency for the

period of the Duration time. For example, if a single bit memory error is detected (warning) 10

times in 24 hours, [**specified time**] it will then generate the Electronic Service Report ESR. This

fault sensing operation (duration and frequency) can be set differently according to various

circumstances. (Col 10 Lines 23-32)

See also Figs 1A- Fig 9 and their corresponding descriptions found at found within

specification.

As per Claim 2: **LEE** teaches: wherein the associated recommended offering further comprises

an offer for a service. See at least Col 7 lines 15-28

As per Claim 3: <u>**LEE**</u> teaches: wherein the data comprises a hardware inventory of the client.

<u>See at least Col 8 lines 10-20</u>

As per Claim 4: <u>**LEE**</u> teaches: wherein the data comprises a software inventory of the client,

<u>See at least Col 6 Lines 45-57</u>

As per Claim 5: <u>**LEE**</u> teaches: wherein the data comprises a performance inventory of the

client. <u>See at least Col 8 Lines 38-44</u>

As per Claim 22: <u>**LEE**</u> teaches: further comprising: saving a history of the inventory as the

inventory changes over time. <u>See at least Col 11 Lines 1-3</u>

As per Claim 23: <u>**LEE**</u> teaches: wherein the comparing further comprises: comparing a

plurality of records in the history. <u>See at least Col 12 lines 40-50</u>

As per Claim 24: <u>**LEE**</u> teaches: wherein the associated recommended offering comprises an

offer for hardware. <u>See at least Col 13 lines 8-15</u>

As per Claim 25: <u>**LEE**</u> teaches: wherein the receiving further comprises: periodically receiving

updates to the data from the client. <u>See at least Col 1 line 53- Col 2 line 15</u>

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

McKnight (US 6,557,035 B1) discloses a Rules Based Method of and System for

Optimizing Server hardware capacity and performance.

Chari et al (US 6,425,006 B1) discloses an Alert Configurator and Manager, which alerts

the operator when an event occurs on one of the computer component.

7.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to MICHAEL R. STIBLEY whose telephone number is (571) 270-

3612. The examiner can normally be reached on Monday-Friday 9 a.m.-5 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, JAMES W. MYHRE can be reached on (571) 272-6722. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MICHAEL R. STIBLEY/
Examiner, Art Unit 3688
Monday, August 25, 2008

/Jean Janvier/

Primary Examiner, Art Unit 3688